

Draft FY 2016 Region 2 Strategic Plan  
Air, Water, RCRA, and Toxics Enforcement

**1. Regional Allotment of FTE [need #s]**

Regulatory Enforcement – Technical	
Regulatory Enforcement - Legal	
Superfund Enforcement - Technical	
Superfund Enforcement - Legal	
Criminal Enforcement - Legal	
NEPA	
EJ	
Administration / Program Support	
Other	
Total Regional OECA FTE Utilization	

Breakdown of Regulatory Enforcement FTE by Division	
Clean Air and Sustainability Division	
Caribbean Environmental Protection Division	
Clean Water Division	
Division of Enforcement & Compliance Assistance	
Division of Environmental Science & Assessment	
Office of Policy & Management	
Office of Regional Administrator	
Public Affairs Division	

**2. National Enforcement Initiative (NEI) Investments**

*Region 2 continues to actively participate in the National Enforcement Initiatives. We have aligned our enforcement resources to ensure that we can continue to focus on the NEIs*

**A. NSR/PSD**

- We will participate in the settlement of two global cases (Ardagh and Lehigh Cement)
- Aside from these actions, we have completed all inspections/closeouts for the universe of facilities under the current NSR NEI areas; we will work with HQs to identify other areas to investigate

**B. Air Toxics**

- We are focusing our effort on excess emission sources and LDAR
- We have addressed the flaring universe; we are currently negotiating flaring settlements against Valero and Infinium

**C. Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters**

- We have completed assessments of all Phase 1 municipal separate storm sewer systems permits and will continue to address Phase 2 communities as we find violations
- With the exception of PVSC and NYC we will have completed taking initial actions for CSOs in NY and NJ and we have nearly completed assessments of sanitary sewer systems (SSS) with total treatment capacity  $\geq 10$  mgd taking action where needed. In FY16 we will:
  - Track compliance of 19 facilities in NY and NJ under Order or CD to comply with CSO requirements as well as do targeted CSO inspections in NY to determine compliance with approved LTCPs and in New Jersey to determine compliance with new CSO permit
  - Assess satellite sanitary sewer systems for the one remaining system in NJ with total treatment capacity  $\geq 10$  mgd
  - For SSOs we will begin a targeted compliance monitoring program in the states to find problem areas based on referrals from work sharing efforts from the states, citizen complaints, information we learn through MS4 inspections and the NY Sewage Right to Know Law

**D. CAFOs**

- We expect to conduct inspections in NY including in the Chesapeake Bay watershed, and complete addressing actions

**E. Energy Extraction**

We plan to make a determination regarding future energy extraction efforts based on the outcome of our ongoing enforcement actions

**3. Safe Drinking Water Act**

- The Region's SDWA priorities include providing inspection and enforcement assistance as part of our state work-share agreements and enforcement of the rules for which NYS has yet to obtain primacy (Long Term 2 Enhanced Surface Water Treatment Rule, Stage 2)
- We experienced a decrease in SDWA-PWSS inspections from FY 13 to FY 14. This was due to a special project regarding abandoned water systems in FY 13, causing the increase in inspections for that year
- We will continue to monitor compliance with existing Administrative Orders in Trenton, Newark and Ridgewood, NJ
- We will continue to monitor compliance with Westchester County and NYC judicial actions

**4. Regional Investments****A. "Making a Visible Difference in Communities" Actions**

*The Regional Administrator identified six communities in Region 2 to focus on as part of the Administrator's priority of "Making a Visible Difference in Communities". The following are action items the Regional Enforcement Program will focus on for five of the six communities. For some of these actions, we will be requesting OECA's assistance (see workshare section). In addition, the EJ Program will provide support and outreach to each community*

- **Newark, New Jersey**

- Track existing CSO Order with the City of Newark and assure compliance
- Work with DOJ to resolve PVSC case which will reduce CSO discharges in Newark
- Track existing SDWA Order with the Newark Water Department and assure compliance
- Provide support to the State concerning the requirements of the SDWA regarding Newark's uncovered finished drinking water reservoir
- Work with the Newark School District regarding lead in schools drinking water
- Perform an MS4 audit and stormwater Multi-Sector General Permit inspections in Newark (we are requesting contractor funds to perform these inspections)
- Develop and implement an enforcement strategy regarding the Area Source Boiler MACT, including a Regional enforcement alert, and targeted inspections/ enforcement follow-up in Newark and Camden, NJ (we are requesting support from OECA for this)
- Using the GeoPlatform, target facilities to perform compliance evaluation inspections in some or all of the following media (where targets are identified): CAA, CWA, RCRA, PCB handlers, EPCRA 313, and TSCA lead and pesticides
- Work with OEI to generate a "TRI Community Snapshot" interactive factsheet for Newark

- **Camden, New Jersey**

- Track existing CSO Order with the Camden County Municipal Utilities Authority
- Track the Administrative Compliance Order for the City of Camden MS4
- Work with the Camden School District regarding lead in schools drinking water program to assure that guidance is still being followed
- Complete a PWS drinking water sanitary survey
- Perform stormwater Multi-Sector General Permit inspections (we asked for OECA contractor assistance for these inspections)

- Develop and implement an enforcement strategy regarding the Area Source Boiler MACT, including a Regional enforcement alert, and targeted inspections/ enforcement follow-up in Newark and Camden, NJ (we are requesting support from OECA for this)
  - Using the GeoPlatform, target facilities to perform compliance evaluation inspections in some or all of the following media (where targets are identified): CAA, CWA, RCRA, PCB handlers, EPCRA 313, and TSCA lead and pesticides
- **Newburgh, New York**
    - Follow-up on recent pre-treatment Administrative Order
    - Perform a PWS sanitary survey (we will request NEIC assistance to complete this)
    - Perform MS4 audit, SSO/CSO inspections and stormwater Multi-Sector General Permit inspections in Newburgh (we have begun to coordinate with a contractor)
    - Using the GeoPlatform, target facilities to perform compliance evaluation inspections in some or all of the following media (where targets are identified): CAA, CWA, RCRA, PCB handlers, EPCRA 313, and TSCA lead and pesticides
  - **Martin Pena, Puerto Rico**
    - Continue to work towards the settlement and conclusion of the San Juan CWA MS4, the DNER, the DOT and the PRASA judicial cases
  - **St. Regis Mohawk Tribe, New York**
    - Provide support as needed in regards to the possible USTs found at the decommissioned/abandoned gas stations
- B. Enhanced Enforcement Oversight in the USVI**
- In FY 14 the OIG performed an evaluation of the US Virgin Island's Department of Planning and Natural Resources (VIDPNR's) environmental programs
  - As part of our response to the OIG, the Region formulated an Enhanced USVI NPDES Enforcement and Program Oversight Plan requiring extensive EPA involvement in the VI's NPDES Program that will be implemented in FY 15/16
- C. Environmental Justice**
- Coordinate, track, and provide support on implementing the Region's EJ activities as outlined in annual EJ plans
  - Region 2, in partnership with HHS, launched and is continuing to develop a regional federal interagency EJ working group (RIWG). The RIWG has collectively agreed to focus its efforts on a handful of communities with EJ concerns in the region
  - Continue to co-chair the National EJ in Permitting steering committee
  - Implement EJSCREEN to give priority to inspections in areas with EJ concerns
  - The Region 2 EJ program will provide support on other EJ-related projects or issues that are brought to our attention internally or from our communities
- D. Puerto Rico Landfills**
- Our PR Landfill enforcement initiative is comprised of four main goals:
    - Work with the Commonwealth government to improve operations while landfills are still open
    - Proper closure of non-complying landfills that have reached capacity, and ensure RCRA and CAA compliance at landfills that continue to operate
    - Seek agreement of municipalities to implement recycling and composting programs where possible and encourage the Commonwealth to do the same

- Achieve greenhouse gas reductions with GCCS and other measures
- In FY 16 we expect to:
  - Follow up on AOs issued to Vega Baja, Juncos, Toa Baja, Florida, Arecibo, Moca and Lajas landfills
  - Work on a judicial CD for the Santa Isabel landfill
  - Continue work on RCRA AOs for Culebra and Isabela landfills, if not completed in FY 15 and identify additional AO candidates
  - Continue work on CAA AO for San Juan Landfill (GCCS)

**E. Reducing Childhood Lead Exposure**

- Conduct 100 LBP inspections and initiate enforcement actions, as appropriate
- Follow-up on RRP rule tips & complaints with an appropriate enforcement response
- Work with at least one school district to conduct sampling of drinking water for lead
- Continue to negotiate two significant judicial referrals for RRP violations at multiple buildings in NYS (Accolade and SYG)

**F. PCBs in Buildings with an emphasis on Schools and Child Care Facilities**

- Continue our national leadership role on this issue
  - Participation in PCB rulemaking workgroup
  - Participation in PCB Policy Steering Committee and three workgroups
  - Provide expertise/assistance to other regions on PCBs in schools
- Oversee NYC's development and implementation of a final city-wide remedy for schools
- Conduct inspections/site visits as necessary to assist schools

**G. Citizen Science**

- The Region 2 EJ program will continue to provide support to our Citizen Science Program to further EPA and the Regional Administrator's aims of building community capacity for conducting environmental monitoring studies.
- For example, our efforts with R2's Division of Environmental Science and Assessment, ORD, and the Ironbound Community Corporation (ICC), help form the foundation for Region 2's Air Sensor Loan Program that will enable other community groups with similar concerns about air pollution in their neighborhoods
- The Region 2 EJ program will also support the Citizen Science Program by reaching out to other potentially interested parties, such as academia, in an effort to grow this regional priority by raising awareness and increasing participation

**H. Bakken Crude**

- Region 2, in collaboration with federal, state, and local agencies, is engaged in an intensive effort to address the increased volume of Bakken crude being transported via rail through NY and NJ
- Inspections and activities under multiple environmental statutes, including emergency planning and the Clean Air Act, are being performed in NY and NJ

**I. Underground Storage Tank (UST) Enforcement**

- Continue to conduct UST inspections and focus on developing enforcement actions
- If not complete in FY 15, continue to negotiate or litigate enforcement actions (Nedjet Yetim, Chestnut, Genesis, Falcon) and settle enforcement actions (FAPO for Middlesex County, Monmouth County, and Consent Decree with Rachelann Yetim)

**J. AES-PR Coal Combustion Residues**

- Continue to work with PR EQB to ensure proper management and disposal of 500,000 pounds per year of coal combustion residuals (CCR) known as Agremax generated by the AES Guayama coal-fired power plant

5. **State Oversight**

- The Region 2 enforcement program will focus its efforts on developing capacity and competency in the Virgin Islands. We are initiating an enhanced quarterly conference call for overseeing DPNR's management and execution of its CAA and CWA programs.
- We will be reviewing all VIDPNR inspection reports and enforcement actions. We will discuss all potential violations and EPA will take action if VIDPNR fails to do so appropriately. We will also be training VIDPNR on data entry requirements and on how to access basic reports
- Another focus will be the Round 3 SRF evaluation of the Puerto Rico Environmental Quality Board (PREQB) CAA program
- We will continue to address the action items established in our Regional State Oversight Plan

6. **Next Generation Compliance**

- Continue to lead the cross-divisional Next Gen workgroup that is incorporating Next Gen tools into permits (with active participation from David Hindin)
- The Region is also developing a process for incorporating Next Gen tools into enforcement settlements and discussing ways to work with the states on their inclusion of Next Gen tools in permits and settlements
- Continue to participate in 5 out of 7 Next Gen teams/workgroups (the Strategic Plan for Next Gen Compliance Workgroup, the Rule Design Consultation Service Team, the Next Gen Regional Communications Team, the Next Gen Tools in Settlements Workgroup, and the Advanced Monitoring Team)
- We continue to take advantage of technology like ArcGIS, the FLIR infrared camera and photo-ionization detectors to enhance the enforcement program through improved targeting and monitoring during inspections
- We are aggressively promoting electronic reporting of NPDES data and development of eNOIs using the NeT

7. **Worksharing**

- We entered into a workshare with Region 7 for assistance on our pesticide cases. Region 7 agreed to support one FIFRA administrative case. Our case was put on hold due to a CID investigation, however, CID recently advised us to proceed
- Cyclechem
  - We are working with Region 3 and NEIC on a potential workshare project regarding the company Cyclechem (a RCRA TSD facility). There are facilities in both R2 and R3 and the Regions will be working together to share expertise during inspections/case development at both facilities
  - NEIC is also providing assistance to Region 2 for Cyclechem as a consultant and for sampling and analysis resources (this is being performed outside of NEIC's annual bidding process)
- Support for Making a Visible Difference in Communities—In addition to utilizing our OECA funds, we will be asking for additional assistance to complete the following projects:
  - Assistance from NEIC to perform extensive and/or multi-media inspections at facilities in these communities, such as a SDWA PWS sanitary survey in Newburgh, NY
  - Requested contractor funds to perform an MS4 audit (approximately \$20k) and stormwater Multi-Sector General Permit inspections (approximately \$20k) in Newark, NJ
  - Contractor funds to perform stormwater Multi-Sector General Permit inspections in Camden (approximately \$20k)

- Contractor funds to perform SSO/CSO inspections (approximately \$15k) and stormwater Multi-Sector General Permit inspections (approximately \$20k) in Newburgh, NY
- Funds to support a SEE to perform lead-based paint inspections in Newburgh, Newark, and Camden (approximately \$65k/year)
- Contract funds (\$30k - \$50k) to assist R2 in working with community groups/universities to use TRI to evaluate impacts to communities and target facilities for emissions reductions
- Support developing and implementing an enforcement strategy regarding the Area Source Boiler MACT, including a Regional enforcement alert, and targeted inspections/ enforcement follow-up in Newark and Camden, NJ (approximately \$75k)
- VERSA/VSIP impacts—As a result of the second round of VERA/VSIP, we lost 4 additional technical staff, which impacts our ability to participate in workshare opportunities

#### 8. **Level of Effort/Trade-offs**

- During FY 15, DECA is operating at an FTE level that is approximate 11% below our allocation, and we lost 4 additional senior technical employees during the last round of VERA/VISP
- We continue to maintain our focus on the National Enforcement Initiatives, Regional Priorities, and ACS commitments
- We have disinvested in pursuing small penalty cases (e.g., FIFRA Section 7, EPCRA 313, TSCA PCBs) that do not achieve significant environmental benefits in order to focus on larger cases in these areas
- We continue to be disinvested in pro-active asbestos work and state oversight inspections
- We are experiencing difficulty finding new RCRA cases in areas other than landfills and USTs
- We are pursuing two significant judicial referrals for RRP violations at multiple buildings that is impacting case development on other LBP cases
- Starting in FY 15, the Regional EJ Program was fully incorporated into the Enforcement Division

#### 9. **Cleanup Enforcement Program Highlights**

- Superfund Enforcement
  - The Superfund enforcement program remains the primary mechanism through which Region 2 accomplishes Superfund cleanups – both removal and remedial actions.
  - Approximately two thirds of all Superfund cleanup expenditures are paid by potentially responsible parties (PRPs), by carrying out the cleanup work itself and/or through payment of EPA's cost recovery claims. Achieving that level of PRP investment is entirely dependent on the enforcement program
  - The available Superfund enforcement resources, located primarily in the program office and the Office of Regional Counsel, are used to carry out the various steps of the enforcement process: PRP searches; information requests and related information gathering work; preparation of notice letters; drafting, negotiating and finalizing enforcement instruments such as administrative orders (on consent or unilateral); preparing referrals to the Justice Department, along with supporting documentation and evidence; supporting litigation when necessary; monitoring compliance with enforcement instruments and taking action against non-compliers; etc
  - Identification of the specific regional enforcement targets for a given fiscal year is part of our overall Superfund work planning process, which usually starts around the middle of the previous fiscal year. The program and legal office work closely together to identify sites expected to be ready to move into the next phase of cleanup work, and to determine those sites for which enforcement efforts are likely to be able to accomplish that phase.
  - The region's FY-16 strategic plan for Superfund, to be developed in consultation with OSWER during the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of FY-15, will elaborate on this process and will identify the targeted enforcement activities
- RCRA Corrective Action

- The Region 2 RCRA corrective action program is implemented in accordance with the authorization status of each of our states:
  - New York is authorized for corrective action and imposes cleanup requirements via state permits or orders
  - New Jersey is not authorized for corrective action but imposes cleanup requirements through state administrative consent orders (ACOs) and other state mandates in accordance with a work sharing agreement with Region 2
  - Neither Puerto Rico nor the Virgin Islands is authorized
- Region 2 currently imposes cleanup requirements through RCRA 3008(h), 3013 or 7003 ACOs at 16 facilities; of these 14 are tracked under GPRA for cleanup progress and 2 are non-GPRA facilities
- Consistent with the National Enforcement Strategy for Corrective Action, Region 2 will continue to look for candidates for federal enforcement to expedite cleanup progress at “stuck” or recalcitrant corrective action facilities and ensure compliance with cleanup obligations. We will also continue to regularly join meetings and discussions at state-lead facilities to ensure that the facility is aware of the action(s) that EPA can take in the event of noncompliance
- Finally, we will continue to review federal corrective action permits for compliance with permit conditions
- These efforts will complement the FY-16/17 RCRA corrective action activities that will be included in the OSWER Strategic Plan

**10. Key trends**

- Focus on high impact cases with largest environmental benefits
- Focus on NEIs
- Pursue small and large cases in the Regional Priority Areas
- Focus enforcement efforts in Region 2’s six “Making a Visible Difference” communities
- Use administrative settlements wherever possible
- DECA remains below its FTE allocation; slowly we are starting to backfill some authorized positions, but there will be lag in performance due to training
- Larger case load for remaining employees, therefore longer timeline for case completion
- Continued burden associated with e-discovery
- Continue to encourage SEPs in settlements to achieve additional environmental benefits
- Judicial cases are slowed because of DOJ resource restraints
- Deterioration of PR and VI economies, resulting in facilities closing and remaining closed
- Continue to maintain a strong pretreatment program. There was a slight increase in pretreatment inspections from FY 13 to FY 14, due to an increase in state inspection requests, and also due to the fact that P2 inspections were counted in FY 14 that were not counted in FY 13